

Internal Revenue Service

P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

Release Number: 201335021

Release Date: 8/30/2013

Date: June 7, 2013

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND:

B = program
C = company and subsidiaries
D = business
E = country
F = country
x = number
y = dollar amount
z = dollar amount

UIL:

4945.04-04

Dear :

You asked for advance approval of your employer-related scholarship grant procedures under Internal Revenue Code section 4945(g). This approval is required because you are a private foundation that is exempt from federal income tax. You requested approval of your scholarship program to fund the education of certain qualifying students.

Our determination

We approved your procedures for awarding employer-related scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding employer-related scholarships meet the requirements of Code section 4945(g)(1). As a result, expenditures you make under these procedures will not be taxable.

Also, awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in Code section 117(b)).

Description of your request

Your letter indicates you will operate an employer-related scholarship program called B. Scholarships you award will recognize and encourage academic achievements, plus accomplishments and talent of current high school students.

To be eligible, applicants must be the son or daughter of a current full-time C employee. The employee must have a minimum of one-year employment with the company at the

time of the application deadline. Retired employee's children, those employed full-time at the time of retirement, are eligible. C officer's children will not be eligible to apply nor will any relatives of members of the selection committee, or of your officers, directors, or substantial contributors. Students must be planning to enroll in a full-time course of study at an accredited two or four year college or university or vocational-technical school in the E or F.

You have contracted with D to administer your program and select recipients. You will provide D with your eligibility guidelines. However, you will utilize the standard selection procedures set by D. The selection procedures include the following: (1) consideration of past academic performance, (2) participation in school and community activities, (3) work experience, (4) career and educational aspirations and goals, (5) unusual or family circumstances, and (6) an outside appraisal. A teacher, counselor, work supervisor, or other professional familiar with the applicant completes the outside appraisal. The appraisal validates the applicant's academic and extracurricular achievements.

Selected recipients will represent a cross section of C employees both geographically and at various employee levels. Applicants must be entering classes in the fall of the year in which the award is given. Once selected, recipient's financial data is reviewed to determine the amount of each award. To determine financial need and the family's ability to contribute toward educational expenses, D has adopted the methodology used by college financial aid offices to support their decision. However, qualified students demonstrating no financial need are eligible for honorariums at the minimum level awarded.

Approximately x awards will be distributed annually ranging from y to z dollars. Future awards are given on a one-time basis and not renewable. This is determined each year based on D's selection procedures and available funds. You will publicize your program internally to all C employees. Internal channels are to include e-mail, announcements on the employee portal, and inclusion at facility town hall meetings.

The selection committee is comprised of staff members of D. They have no connection with you other than as the contracted administrator of your program. Once the committee has made its recommendations, the number of grants is fixed. You will verify the selected recipients' eligibility. If any of the recommended recipients do not meet eligibility requirements, alternates may be selected. If you determine more funding is available, additional recipients may be selected. In both scenarios, the selection ratio limit set forth by IRS Revenue Procedure 76-47 will not be exceeded.

You will disburse funds for the awards to D. D confirms the recipient's school enrollment and mails a check, payable to the school, to the recipient for the award. D tracks each transaction. Annually, D will submit reports to you to include the following: (1) updates on the number of applications received while the program is open, (2) verification reports, (3) renewal reports, (4) applicant/recipient location summary, (5) applicant/recipient statistical summary (6) program history, (7) program summary, and (8) credit reports of awards not used.

You represent that you will complete the following: (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversion of funds from their intended purposes, and (3) take all reasonable and appropriate steps to recover the diverted funds, ensure other grant funds held by a grantee are used for their intended purposes, and (4) withhold further payments to grantees until you obtain grantees' assurances that future diversions will not occur and that grantees will take extraordinary precautions to prevent future diversion from occurring.

You represent that you will maintain the following: (1) all records relating to individual grants including information obtained to evaluate grantees, (2) identify a grantee is a disqualified person, (3) establish the amount and purpose of each grant, and (4) establish that you undertook the supervision and investigation of grants described above.

Basis for our determination

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that meets all of the following requirements of Code section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is a scholarship or fellowship subject to Code section 117(a).
- The grant is to be used for study at an educational organization described in Code section 170(b) (1) (A) (ii).

Revenue Procedure 76-47, 1976-2 C.B. 670, provides guidelines to determine whether grants a private foundation makes under an employer-related program to employees or children of employees are scholarship or fellowship grants subject to the provisions of Code section 117(a). If the program satisfies the seven conditions in sections 4.01 through 4.07 of Revenue Procedure 76-47 and meets the applicable percentage tests described in section 4.08 of Revenue Procedure 76-47, we will assume the grants are subject to the provisions of Code section 117(a).

You represented that your grant program will meet the requirements of either the 25 percent or 10 percent percentage test in Revenue Procedure 76-47. These tests require that:

- The number of grants awarded to employees' children in any year won't exceed 25 percent of the number of employees' children who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants, or
- The number of grants awarded to employees' children in any year won't exceed 10 percent of the number of employees' children who were eligible for grants (whether or not they submitted an application), or

- The number of grants awarded to employees in any year will not exceed 10 percent of the number of employees who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants.

You further represented that you will include only children who meet the eligibility standards described in Revenue Procedure 85-51, 1985-2 C.B. 717, when applying the 10 percent test applicable to employees' children.

In determining how many employee children are eligible for a scholarship under the 10 percent test, a private foundation may include only those children who submit a written statement or who meet the foundation's eligibility requirements. They must also satisfy certain enrollment conditions.

You represented that your procedures for awarding grants under this program will meet the requirements of Revenue Procedure 76-47. In particular:

- An independent selection committee whose members are separate from you, your creator, and the employer will select individual grant recipients.
- You will not use grants to recruit employees nor will you end a grant if the employee leaves the employer.
- You will not limit the recipient to a course of study that would particularly benefit you or the employer.

Other conditions that apply to this determination:

- This determination only covers the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures do not differ significantly from those described in your original request.
- This determination is in effect as long as your procedures comply with sections 4.01 through 4.07 of Revenue Procedure 76-47 and with either of the percentage tests of section 4.08. If you establish another program covering the same individuals, that program must also meet the percentage test.
- This determination applies only to you. It may not be cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes to your program to the Office of at::

Internal Revenue Service

- You cannot award grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.

- All funds distributed to individuals must be made on a charitable basis and further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code section 170(c) (2) (B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

Please keep a copy of this letter in your records.

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Holly O. Paz
Director, Exempt Organizations
Rulings and Agreements